

Doc Code: AP.PRE.REQ

PTO/SB/33 (01-09)

Approved for use through 02/28/2009. OMB 0651-0031
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

411963.0036

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on _____

Signature _____

Typed or printed name _____

Application Number

10/520,789

Filed

8/22/2005

First Named Inventor

Andrew Sean Bissett

Art Unit

3781

Examiner

Eloshway, Niki Marina

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

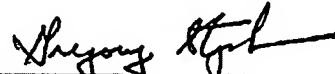
applicant/inventor.

assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/98)

attorney or agent of record.
Registration number 41,329

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____



Signature

Gregory Stephens.

Typed or printed name

919.981.4318

Telephone number

March 4, 2009

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below.

*Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122, and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PRE-APPEAL BRIEF REMARKS

A. Introduction

Applicant submits that the current final office action issued by the Examiner in the present application contains clear errors in the Examiner's rejections as well as omissions of one or more essential elements needed for a *prima facie* rejection.

The following claims are currently pending in the application: claim 1. Claim 1 has been rejected under 35 USC §102(b) as being anticipated by Steffan (US Pat 6,854,616 B1) hereinafter "Steffan". In addition, claim 1 has been objected to for informalities in the text of the claim. These informalities are not addressed herein but can be easily amended at a more appropriate stage of the prosecution.

Applicant has also noticed that the Examiner used section 102(b) rather than 102(e) for the rejection. However, the present application was first filed in July 2002 while the cited patent was first filed in April 2002. Thus, the 102(b) rejection should be amended to be a 102(e) rejection.

B. The Present Application

The present application describes an assembly for receiving and docking a complementary container. The complementary container includes a head portion and is engaged with a dispensing apparatus. Once the container is engaged with the apparatus via the fast fit assembly, the dispensing liquid can be drawn from the container using a needle or other conduit assembly (¶ [0052] - [0055]).

The fast fit assembly includes a resilient head retention collar. The resilient collar is comprised of inwardly bowed linking regions that include retention elements capable of being pressed and/or twisted outwardly. The resilient collar is outwardly deformable and the retention elements are designed to engage the head portion in a clip fit. (¶ [0065] - [0073]) and Abstract)

Thus, the present application describes a mechanism (fast fit assembly) that facilitates the cooperative engagement of a container (e.g., bottle) with a dispensing apparatus (e.g., a syringe device) such that the contents of a bottle can be extracted and utilized in a quick and efficient manner. When a container's contents are exhausted, the fast fit assembly facilitates a quick uncoupling and recoupling of another container.

C. The Prior Art Steffan Reference

The Steffan reference generally teaches a protective valve cap cover for a propane gas tank valve stem. As such, the valve cap cover of Steffan provides no coupling ability. The valve cap 100 has a generally cylindrical wall portion 101, a closed end 102 and an open end 103. (c.2, ll. 44-47) On an internal surface of the cylindrical wall portion 101, a plurality of locating ribs 104 are formed, which locate a valve 200 (see FIG. 3) to be inserted into the center of the protective cap and to distance the valve 200 from the internal surface of the protective cap as shown in FIG. 4. (c.2, ll. 53-57) Retaining fingers 105 are formed between the locating ribs 104. The retaining fingers 105 are formed radially inward from the internal surface of the cylindrical wall portion 101 and may be inclined towards the open end when the valve 200 is not inserted (unlocked state). (c.3, ll. 8-12) Each finger may be formed on a platform 107 (FIG. 1) formed on the internal surface of the cylindrical wall portion 101. Each platform is formed to provide a sufficient clearance for the fingers 105, when molding the protective cap 100. (c.3, ll. 21-24) As shown in FIG. 7, the fingers 105 are bent flat at the flexible portions 106 when the threads 201 come over the fingers 105. (c.4, ll. 12-14)

When the valve cap cover is inserted over the valve, the threads 201 of the valve force the fingers 105 of the valve cap 100 to bend almost completely *upward* (i.e., in a vertical direction) (FIG. 7) until the fingers 105 clear the threads 201 at which time they partially snap back into a locked position (FIG. 8).

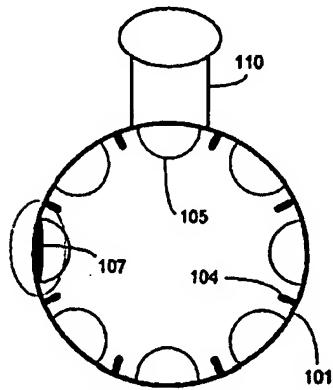
D. The Steffan Reference Does Not Teach A Fast Fit Assembly Having A Resilient Collar Comprised Of An Array Of Inwardly Bowed Linking Regions Capable Of Moving Outwardly Radially As Set Out In Independent Claim 1 And Needed For A Prima Facie Rejection.

The Examiner's 102(b) rejection is reproduced in its entirety and cites Steffan (Fig. 4, ref nos. 105, 107 and Figs. 7-8 generally) as teaching "*a fast fit assembly 100 having a collar at 101. The collar has an array of bowed linking regions 107 (see figure 4), and an array of elements 105 which move radially outwardly and bias against the container as shown in figures 7 and 8. The inwardly bowed regions support the array of elements.*" (Office Action dated 12/19/2008 – page 2, paragraph 3)

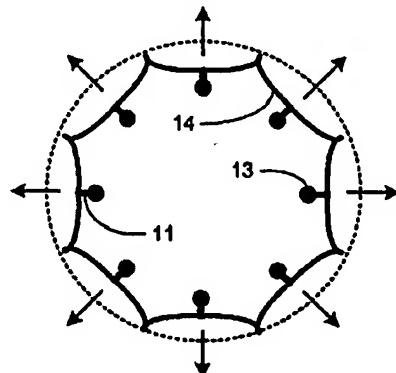
The Examiner has mischaracterized the teachings of Steffan as they pertain to claim 1 of the present application. The Examiner characterizes Steffan as teaching "a fast fit assembly 100

having a collar at 101" when Steffan actually refers to those elements as a protective cap 100 and a cylindrical wall portion 101. The Examiner also characterizes the platforms 107 of Steffan as the inwardly bowed linking regions recited in claim 1. This is factually inaccurate because the platforms 107 as described and pictured in Steffan do not exhibit any characteristics that would lead one of ordinary skill in the art to conclude that the platforms are inwardly bowed.

The Examiner then states that the array of elements (fingers 105) in Steffan can "move radially outwardly and bias against the container as shown in figures 7 and 8." This is clearly not the case as can be shown with reference to side by side views of Steffan and what would be a top view of the *resilient* collar described in the present application.



Steffan



Present Application

It is clear that the array of elements 11 of the present application are integral with and supported by the inwardly bowed linking regions 14. The dotted circle that circumscribes the resilient collar has been included to show the contrast between the present application and Steffan. The Examiner characterizes the cylindrical wall portion 101 in Steffan as reading on the resilient collar of the present application. This is inaccurate in that the resilient collar of the present application obtains its resiliency from its inwardly bowed design and its ability to extend radially outward as indicated by the arrows in the figure above.

As the collar of the present application receives the head of a container having a neck flange (e.g., threads in Steffan), the neck flange will force the array of elements 11 radially

outward while not disrupting the integrity of the dotted circle. This is possible because of the inwardly bowed design. The inwardly bowed linking regions 14 provide a clearance so that a neck flange can force the array of elements outward and then allow the retention regions 13 of the elements 11 to snap into place once they clear the neck flange to secure the container in place. The array of elements 11 and the associated retention regions 13 are *inflexible* in that they are not deformed during the coupling or decoupling process merely pushed radially away.

In contrast, Steffan operates by utilizing the flexibility or resiliency to the fingers 105 *not* the collar (cylindrical wall portion 101). Thus, what the Examiner characterizes as a resilient collar is in fact a *non resilient* component of the Steffan apparatus. Since the collar (cylindrical wall portion 101) is not resilient the fingers must be for the invention to function. This is explicitly stated in Steffan, "[a]s shown in FIG. 7, the fingers 105 are *bent* flat at the *flexible portions* 106 when the threads 201 come over the fingers 105." (c.4, ll. 12-14)

In Steffan, when the protective cap 100 is fitted over a threaded valve stem, each finger 105 is bent completely upward and over itself (Fig. 7) in the space provided for by the ribs 104. Once the threads have been cleared, the fingers snap back until they abut the valve port and stay curled towards the closed end of the cap (c.4, ll. 19-21 and Fig. 8).

In contrast, the present application describes and claims that the array of elements 11 are 'outwardly radially movable' meaning the elements 11 can move away from the center of a hypothetical circle when acted upon by a certain force. This has been described and illustrated above with reference to the arrows that all point away from the center of a circle. This specific motion is a direct result of the inwardly bowed design. Steffan's design, however, is prohibited from moving 'outwardly radially' because the cylindrical wall portion 101 can not be deformed in this manner. Any attempt to force the cylindrical wall portion 101 in an outwardly radial direction would immediately result in the deforming the cylindrical nature of the protective cap and prevent it from receiving a valve stem. Since the cap/collar is not resilient or flexible, Steffan depends on the fingers (array of elements) to be flexible and resilient. This is the exact *opposite* of the present application in which the collar is flexible and resilient while the array of elements is not.

Steffan also describes the *optional* (c.3, l. 29) use of platforms 107 and equates them to the inwardly bowed linking regions of the present application. A platform 107 can be formed on the internal surface of the cylindrical wall portion 101. Each platform 107 is formed to provide a

sufficient clearance for the fingers 105, when molding the protective cap 100. (c.3, ll. 21-25) There is nothing to suggest that the platforms 107 of Steffan are the same as or equivalent to the inwardly bowed linking regions 14 of the resilient collar of the present application. Moreover, the resilient collar is formed from the plurality of inwardly bowed regions meaning that they are indispensable whereas the platforms 107 of Steffan are a mere option that can be attached to the collar and are not actually a part of the collar.

Based on the above, it is clear that Steffan does not teach a resilient collar much less a resilient collar comprised of an array of inwardly bowed linking regions as claimed in claim 1. Nor does Steffan teach that the array of elements can be moved outwardly radially which is also claimed in claim 1.

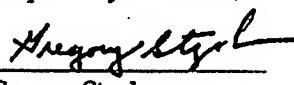
E. Conclusion

In sum, the Steffan reference fails to teach or disclose all of the elements and/or steps of claim 1 as asserted by the Examiner and required under 35 USC §102(b). Thus, the Examiner's rejection contains clear errors in as well as omissions of one or more essential elements needed for a *prima facie* rejection.

Respectfully submitted,

Date: 3.2.09

Telephone: 919.981.4318
Facsimile: 919.361.2262



Gregory Stephens
Attorney for Applicants
Registration No. 41,329
Williams Mullen PC
4721 Emperor Blvd. - Suite 400
Durham, NC 27703